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Game Law:

OR, A
COLLECTION
OF THE
England
LAWS and STATUTES

Made for the
Preservation of the GAME
of this Kingdom.

Drawn into a short and easie Method, for the Information of all Gentlemen, and Caution of others.

The Second Edition, with large
Additions.

L O N D O N,
Printed by the Assigns of Richard and Edward
Atkyns, Esqs; for Abel Roper at the Black-
Boy against St. Dunstan's Church in Fleet-
street. 1707.



TO THE
READER.



OW strictly the Game (which may otherwise be called the Subject-matter of Hunting, Hawking, Shooting and Fishing) is kept and preserved in Foreign Countries, France especially, our Travellers can witness. In many places, to offend herein is Capital. And it seems to have been once so in England before the Reign of King Henry III. For by the Charter

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of the Forest, made in the Ninth Year of that King, it is Enacted, That none shall for the future lose Life or Member for Killing the King's Deer. And though such Crimes are not now Felony (generally speaking) yet are they Trespasses of an high Nature, and severely punishable by Fine and Imprisonment, and in some Cases with Corporal Inflictions.

Unwarrantable Destroying of Game, now called Poaching, (a word of Disgrace among Sportsmen) is no New Crime, but taken notice of, and provided against by the Statute of 13 R. 2. cap. 13. Which Statute observes, That then (as now) divers Artificers, Labourers, Servants, and Grooms, did use to Hunt in Parks and Warrens of Lords and others,

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on Holy-days, when good Christian People be at Church hearing Divine Service; and sometime under such Colour they made their Assemblies, Conferences, and Conspiracies to rise, and disobey their Allegiance.

And very properly does that Statute call Deer and Hares, &c. Gentlemens Game; for in truth these Disports are no ways fit for those who have not such plentiful and sufficient Estates and Revenues, as can support them without that Care and Pains-taking which is necessary for the Management of a Trade or Profession. And therefore Inferiour Tradesmen, Apprentices, and such-like, do a double Injury in using these Diversions without Licence or Appointment of

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those who have Authority to give it. First, They injure the Lords of Manors and Royalties, who have as much Right and Property in their Game, as in any other Appurtenant belonging to their Lands and Estates. And Secondly, they injure themselves, by this means neglecting their honest Callings, and proper Way of Livelyhood, wasting their Time not only unprofitably, but wrongfully, and contracting such an Idleness (the Mother of all Vices) as inclines them afterwards to Robberies and Burglaries, which end too frequently in a shameful Death, as is observed in the Preamble and towards the Conclusion of the late Stat. 4 & 5 W. & M. cap. 23.

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For though they begin with these Trespasses, which they, perhaps, think Small, they increase by Degrees into the greatest Felonies: Nemo fit repente nequissimus. Like the young Boy in the Fable, who begun with robbing Orchards, but, scaping Punishment at first, he increased his Crimes with his Age, and ended his Life at the Gallows.

For preventing the pernicious Consequences and Effects of such Beginnings, many Statutes have been made in all Times, ancient and modern: And for reducing the several Laws under proper Heads, and into an easie and ready Method for the Owners and Proprietors of Game to see their Rights, and for the Common Trespassers and Poachers to see their Peril, and avoid the Danger, the following

viii **To the Reader.**

*Particulars have been collected and
compiled into this short Compendium,
and in this Second Edition conti-
nued to the present year 1707.
With an Index referring to almost
every Word that is material.*

THE

I
T H E

Game Law.

P R Æ M O N I T I O.

I.

A F O R E S T (the Principal and most Noble Conservatory of Game) is a Place or Circuit of Woody Grounds and Fruitful Pastures, known in its Bounds, and privileged by Royal Authority or by Prescription, for the peaceful being and feeding of Wild Fowl and Wild Beasts of Chace, to be under the King's Protection for his Princely Delight. *Co. Lit. fo. 233.* And note, by the Grant of a Forest, the Game of the Forest doth pass. *Dy. 169. b.* Adjoining to a Forest are certain Lands call'd *Purlieus*, which Lands were in old times part of the Forest, but have been Disafforested in the Reign of King

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Hen. 3. or since : and in any Purlieu a Man may lawfully hunt to all intents and purposes, within his own Grounds ; and the Wild Beasts do belong to the Purlieu-man, *ratione soli*, so long as they remain in his Grounds, and he may kill them ; for the Property (*ratione soli*) is in him. And if he chase them with Greyhounds, and the Beasts flee towards the Forest, if the Purlieu-man pursue them to the Bounds of the Forest, and then do his endeavour to take off the Dogs from the Pursuit, altho' the Dogs do follow the Chase in the Forest, and kill the King's Deer there, this is no Offence, if the Owner enter not into the Forest, nor meddle with the Deer so killed. But if the Dogs fasten upon the Deer before he recover the Forest, and the Deer drag the Dogs into the Forest, there the Purlieu-man may follow the Dogs, and take the Deer. *Co. 4 Inst.* 303, 304. Altho' these Purlieus are absolutely Disafforested, yet it hath been permitted that the Ranger of the Forest should, as often as the Wild Beasts of the Forest range into the:

the Purlicu, with his Hound re-chafe them back into the Forest. *Co. ibid.*

The next in Reputation is a CHASE; and this is much like the former, *viz.* a great quantity of Ground lying open, and privileged for Wild Beasts and Wild Fowl. *Kelw. 14, 15.* A *Forest* in the King's hands, is a *Chafe* in a Subject's. *Crompt. Jur. 148.* And note, That Chases that never were Forests, cannot have any Purlicu. *Co. 4 Inst. 303.*

II.

The next is a PARK; that is, a great quantity of Ground inclosed, privileg'd for Wild Beasts of Chafe, by Prescription, or by the King's Grant: And this differeth little from a *Chafe*, which is of a middle nature between it and a *Forest*: for a *Forest* is open and a greater quantity, this inclosed and a less quantity of Ground. If a Park lie open, it is a cause of Seizure. *Vide Crompt. Jurisdic. f. 148.* If the Owner of a Park dye, his Heir shall have the Deer in it, and not his Executors or Administrators: because
without

without them, the Park, which is an Inheritance, is not complete. *Co. Rep. lib. 7. fo. 17. b.*

III.

The lowest in Degree is a WARREN; which our Law describes to be, *A place privileged by Prescription, or by the Royal Grant, for Preservation of Hares, Conies, Partridges and Pheasants, or of some of them.* *Co. Litt. 233.* And note, That every Forest being the highest and greatest Franchise, doth comprehend in it a Chase, a Park, and a Free Warren. *Manwood p. 53.*

IV.

No Free Warren can be made in any Chase or Park; Nor may any make a Park, Chase or Free Warren within his own Land, without the King's License or Grant for it. And if any shall presume so to do of his own accord, the King may by a *Quo Warranto* seize it. *Co. Rep. 11. fo. 86. Co. 2 Inst. 199.*

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The King may, if he please, grant a Warren to one in any Land of his own, for all sorts of Beasts and Fowl of Chase; or for Pheasants and Partridges only; or for Hares only, and not for Conies. And where one hath a Warren, no man may hunt there without the Owner's Licence, but he will be liable to his Action. *Cromp. Jur.* 148.

VI.

Any Man may Hawk and Hunt at his pleasure in his own Lands, that is not the Free Warren of another Man; and he shall not need the King's Licence for this. And so also for other Recreations. *Co. II Rep.* 87.

VII.

The King may not by his Prerogative restrain any Man from the use of lawful Recreations, as Hawking, Hunting, Carding, Dicing, or the like; nor may he punish the Exercise of it, otherwise than by the Statute or Common Law is limited and appointed.
And

And for this, it is said, that where King *Edw. 3.* in the 39th year of his Reign enjoined the Exercise of Shooting and of Artillery, and forbad the Exercise of Casting of Stones and Bars, and the Hand and Foot-Balls, Cock-fighting, & *alios Ludos vanos*, no effect did follow upon it, till they were some of them forbidden by Act of Parliament. In *Dorj. Claus. 39 E. 3. n. 23. Co. 11 Rep. fo. 87. b.* To play at Dice not unlawful in it self, tho' prohibited by several Statutes to certain persons, and to be used in certain places. *2 Vent. p. 175.* It is remarkable what *Stow* records in his *Annals, p. 527.* That in *May 28 H. 8.* Proclamation was made against all unlawful Games, and Commissions awarded into every Shire for the Execution of the same; so that in all places Tables, Dice, Cards and Bowls were taken and burnt: But when Young Men were restrained of these Games and Pastimes, some fell to Drinking, some to ferreting of other Mens Conies, and stealing of Deer in Parks, and other Unthriftness.

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The Game of the Field (for Preservation of which so many Statutes have been made) may be said to relate to three of the four Elements; viz. the Earth, the Air, and the Water: And accordingly I shall divide what I have observed on this Subject, under these three Heads; 1. Beasts for Chace. 2. Birds of Flight, or Wild-Fowl. And 3. Fish.

I. Beasts for Chace, or Hunting.

VIII.

NONE shall lose either Life or Member for killing the King's Deer, but shall be fined for it if he have any thing; if not, imprisoned for a year and day, and then delivered, if he can find good Sureties; if not, abjure the Realm. *Char. Forest.* 9 H. 3. c. 10. Before this Statute, it was Felony to hunt the King's Deer in any Forest. 2 *Roll. Rep.* 120.

IX. Every

IX.

Every Lord of Parliament, be he Spiritual or Temporal, sent for by the King, may in coming and returning kill a Deer or two in the King's Forest, Chace or Park through which he passes. However, this must not be done privily, but by the view of the Forester, if present; if absent, by causing one to blow a Horn for him, lest he seem to steal the Deer. *Chart. Forest. c. 11.* See more of this *Crompt. Jurisd. 167. b. 168. a. b. Co. 4 Inst. 308.* Sir *Edw. Coke* treating of this Law, observes, That albeit Spiritual Persons are prohibited by the Canon-Law to hunt (for which he cites *Linwood's Provincials, de Clerico Venatore*), yet by the Common-Law of the Land they may for their Recreation, to make them fitter for the performance of their Duty and Office, use the Diversion of Hunting. *Co. 4 Inst. 309.*

X.

Trespassers in Parks or Ponds shall give treble Damages to the Party griev'd,

griev'd, suffer three years Imprisonment, be fined at the King's pleasure, give Surety not to offend again in the like kind, or abjure the Realm; and if Fugitive, shall be Outlaw'd. *Westm. 1. 3 E. 1. c. 20.* To break, cut down, or destroy Pond-heads, or to take Fish in Ponds, Stews, &c. against the Owner's will; to break wrongfully into any Park, and hunt or kill any Deer there; to take away wrongfully any Hawk or Hawks Eggs, has the like Penalties inflicted by the Stat. 5 *Eliz. c. 21. §. 2, 3.* with this Variation, That the Offenders shall also find good Sureties for their good Abearing for the space of Seven Years after. But the party griev'd, upon the true satisfaction of the said treble Damages, may if he please before the Justices in open Sessions release the said Suretyship of good Behaviour: So also may the Justices, where the Offender comes before them in open Court, and confesses his Offence, is sorry therefore, and satisfies the party grieved. *Ib. §. 5, 7.*

XI.

A Forester, Parker or Warrener, shall not be question'd for killing a Trespasser within his Liberty, who will not yield, if not done out of former Malice. 21 E. 1. *De Malefactoribus in Parcis*. Wingate Forests 20. Yet if the Trespasser kills any such Servant, it is Murder. And so Thomas Lord Dacre of the South was hang'd at Tyburn, 33 H. 8. being found Guilty by his Peers for Trespassing in the Night-time in another's Park, where a Murder was committed. *Vide* the Case in *Moor Rep. f. 86. Stow's Ann. 582. Dugd. Bar. Eng. 2 Vol. 244.* Note, if a Man comes into a Forest in the Night-time, the Forester cannot justifie beating him before he make Resistance: but if he resists, he may justifie the Battery. *Roll. Abridg. Trespass fo. 548.* If Trespassers in a Park kill a Man who opposes them, tho' they bore no Malice to the Party kill'd, this is Murder, because they entred the Park to do an unlawful Act, and therefore Malice is imply'd.
And

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And *note*, That Trespassers in Parks ought not to fly, but yield to the Keepers when required. *Note also*, That the Keepers may justify killing of any that comes to hunt and kill the Game wrongfully: Yet if upon private Malice the Keeper kills a Man that comes into a Park without any intent to hunt, this is Murder in the Keeper. 2 *Roll. Rep.* 120. The Case of *Wormall* and others.

XII.

No Layman not having Land of 40 s. *per annum*, nor Clerk not having 10 l. *per annum* Revenue, shall have or keep any Greyhound, Hound, Dog, Ferret, Net, or Engine to destroy Deer, Hares, Conies, or any other *Gentlemens Game*. Penalty, One years Imprisonment, which Justices shall have power to inflict. 13 R. 2. c. 13. There be four kinds of Dogs which the Law regards, *viz.* a Mastiff, a Hound, (which comprehends a Greyhound) a Spaniel, and a Tumbler. And in a Dog a Man may have a Property. So also of a Ferret,

Ferret, tho' it be of a more base Nature. A Man brought his Action of Trespass for taking of a Bloudhound, and recover'd 10 *l.* Damage. *Cro Eliz.* 125, 126.

XIII.

None shall keep any Deer-hays or Buck-stalls, save in his own Forest or Park, on pain to forfeit 40 *s.* for every month; nor stalk with Bush or Beast to any Deer, except in his own Forest or Park, under Penalty of 10 *l.* 19 *H. 7. c. 11.*

XIV.

None shall trace, destroy or kill Hares in the Snow, Penalty 6 *s.* 8 *d.* to the King, if enquired of and presented in the Sessions; if in the Leet, to the Lord of the Manor. 14 & 15 *H. 8. c. 10.*

XV.

To kill or chase, without the Owner's Licence, Deer or Conies in any Park or inclosed Ground, incurs the Penalty of Three months Imprisonment, treble Damages to the Party injured (or 10 *l.* at his election) and bound with two good Sureties to the
good

good Behaviour for seven years, or Imprisonment till he finds such Sureties. But the party grieved, if satisfied, may release the Behaviour. 3 Jac. 1. c. 13. & 7 Jac. 1. c. 13.

XVI.

No person not having 40 *l. per ann.* in Lands, or 200 *l.* in Goods, or some enclosed Ground for Deer or Conies worth 40 *s. per ann.* shall use Gun, Bow, or Cross-Bow, to kill Deer or Conies; nor keep Buck-stall, Ferret, Dog, Net, or other Engine; And any person having Lands worth 100 *l. per ann.* may seize such Gun, &c. and keep the same to his own use. 3 Jac. 1. c. 13. §. 5.

XVII.

To curse, kill, hurt, or take away any Red or Fallow Deer in any ground where Deer are kept, without consent of the Owner, or Person entrusted therewith, or to be aiding therein, being prosecuted within Six Months, and convicted by Confession or Oath of one Witness before one Justice of Peace, 20 *l.* Penalty, to be levied by Distress,

Distress, half to the Informer, the other half to the Owner of the Deer. For want of Distress, the party to be committed to the House of Correction for Six Months, or common Gaol for a Year, and bound to good Behaviour for one Year after. But none punish'd by this Act, to incur the Penalty of any other. 13 Car. 2. cap. 10.

XVIII.

Lords of Manors or other Royalties, not under the Degree of an Esquire, may by Writing under Hand and Seal authorise one or more Game-Keepers, who may seize Guns, Bows, Greyhounds, Setting-Dogs, Lurchers, or other Dogs to kill Hares or Conies, Ferrets, Trampels, Low-Bells, Hays, or other Nets, Harepipes, Snares, or other Engines for taking Conies, Hares, Pheasants, Partridges, or other Game, used within such Manors by persons prohibited by this Act to use the same. Such Game-Keepers and others, by Warrant from one Justice of Peace, may search the Houses of persons suspected to keep such Guns, Bows,

Bows, Greyhounds, &c. and seize them for the use of the Lord of the Manor, or otherwise destroy them 22 & 23 Car. 2. c. 25. §. 2.

XIX.

Persons not having Lands or some other Estate of Inheritance in their own or Wife's Right of 100 *l. per ann.* or for Life, or Lease of Ninety nine years, of 150 *l. per ann.* (other than the Son and Heir of an Esquire or other person of higher Degree, or Owners and Keepers of Forests, Chases, Parks or Warrens) are declared to be persons not allowed to keep Guns, Bows, Greyhounds, &c. *Ibid.* §. 3.

XX.

To enter into a Cony-ground, tho' not inclosed, and chase or kill against the Owner's will: Penalty upon Conviction, treble Damages, Imprisonment for three Months, and Sureties for good Behaviour. *Ibid.* §. 4.

XXI. Such

XXI.

Such as kill Conies on the borders of Warrens or other Ground used for keeping Conies, in the Night-time, except Owners, &c. shall make such Recompence as shall be appointed by the Justice of Peace before whom the party shall be convicted, and pay such Sum to the Poor of the Parish (not exceeding 10 s.) as the said Justice shall think fit, or be committed to the House of Correction not exceeding a month. Such as use Snares, Harepipes, or other Engines, incur the same Penalties. *Ibid.* §. 5, 6.

XXII.

To hunt in Forest, Park or Warren; in the Night-time or disguised, if deny'd or conceal'd upon Examination before a Justice of Peace, is made Felony : but if confess'd, Finable at the next General Sessions. In this case a Rescous, or Disobeyfance by the Party, is Felony. 1 *H.* 7. c. 7.

Note, That this Act doth not extend to any Chase, nor to any Forest, Park or Warren in Use and Reputation only,

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only, and not such in Law. *Co. 3 Inst.*
76. And in this sort of Felony the
Delinquent may have his Clergy.
Id. 78.

XXIII.

To Course, Hunt, Take in Toils,
Kill, Wound, or Take away, any Red
or Fallow-Deer, in Forest, Chase,
or any Ground inclosed for keeping
of Deer, without consent of the
Owner or Keeper, or to be aiding
therein, upon Conviction by Con-
fession or Oath of one Witness before
a Justice of Peace within a year after
Offence, forfeits 20*l.* for every such
Fact; and for every Deer wounded,
taken or killed 30*l.* to be levy'd by
Distress and Sale, upon the Justice's
Warrant before whom the Conviction
was, one third part to the Informer,
one to the Poor of the place where
the Offence committed, the other to
the Owner. For want of Distress,
a Years Imprisonment, and Pillory
for one Hour at the next Market
Town. 3 & 4 *W. & M. cap.* 10.

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XXIV. Con-

XXIV.

Constables, &c. by a Justice of Peace's Warrant may enter and search Houses of suspected persons; and if any Venison, Deer-Skins or Toyls be found, may carry the person before the Justice; and if he do not give a good Account how he came by them, in convenient time produce the party of whom he had them, or prove the Sale upon Oath, he shall be convicted, and incur the Penalties of this Act for killing a Deer. *Ibid.* *Note*, The word *Venison* (agreeing with the *Latin* word *Venatio*) is in a general sense taken for the Flesh of any Wild Beast that is killed by Hunting; but in a more special signification it is confin'd only to the Flesh of Red and Fallow-Deer, which is more properly express'd by the *Latin* word *Ferina*. *Mamwood* 114, 116. And in this special signification the Verse in *Virgil*, *Æn.* 1. is to be understood:

Implentur veteris Bacchi, pinguisq; Ferina.

XXV.

The Offender, if he do not presently pay the Money, may be detain'd in Custody (not exceeding two days) till the Warrant of Distress may be return'd. 3 & 4 W. & M. cap. 10.

XXVI.

Owners of Deer or their Servants may resist such Offenders, and shall be indemnified. *Ibid.*

XXVII.

No *Certiorari* shall be allowed to remove such Conviction or other Proceedings on this Act, unless the party with Sureties be first bound in Fifty Pounds to pay the Prosecutors their full Costs in case it goes for them. *Ibid.*

XXVIII.

None punish'd upon this Act shall incur the Penalty of any other Law for the same Offence. *Ibid.*

XXIX.

To pull down or destroy, or cause to be pulled down or destroy'd in the Night-time, the Pales or Walls of any Park or other Ground inclos'd for the keeping of Red or Fallow Deer, the person convicted by Oath of one Witness before a Justice of Peace, shall by such Justice's Warrant suffer Imprisonment for three months. *Ibid.*

XXX.

If any Officer or Soldier, without leave of the Lord of the Manor under his Hand and Seal, take or destroy any Game, and shall be convicted thereof upon Oath before a Justice of Peace, he shall forfeit, if an Officer, *5 l.* to be distributed among the Poor of the Parish. And every Officer commanding in Chief shall forfeit for every such Offence committed by any Soldier under his Command *10 s.* to be distributed as aforesaid; and for default of payment within two days after Conviction, and demand by Constable or Overseer, such Officers
Commission

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Commission is forfeited, and made null and void. 4 & 5 W. & M. cap. 13. This Act being temporary, was reviv'd by several subsequent Acts; and lastly, it was anew enacted, 1 An. Sess. 2. c. 16. to continue till 25 Mar. 1704.

XXXI.

By the Statute 2 & 3 An. c. 20. it is again enacted, That if any Officer or Soldier, without leave *ut supra*, take or destroy any Hare, Cony, Pheasant, Partridge, Pigeon, or any other sort of Fowl, Poultry or Fish, he shall, upon Conviction *ut supra*, forfeit, if an Officer, 5 *l.* and for every such Offence committed by any Soldier under Command, the Officer commanding in Chief shall pay 20 *s.* or lose his Commission, *ut supra*. See the Stat. p. 315.

XXXII.

Constables, &c. by a Justice of Peace's Warrant shall search the Houses of suspected persons not qualified, and in case any Game shall be there
B 3 found,

found, the Offender shall be carried before a Justice of Peace; and not giving a good Account how he came by it, or produce the party of whom he bought it, in convenient time, or credible person to depose upon Oath the Sale thereof, he shall be convicted by the said Justice, and forfeit for every Hare, Partridge, or other Game, any Sum not under 5 s. nor exceeding 20 s. Half to the Informer, and half to the Poor of the Parish where the Offence was committed; to be levied by Distress and Sale of Goods; or for want thereof, Commitment to the House of Correction, not exceeding a month, nor less than ten days, there to be whipt and kept to hard Labour. 4 & 5 W. & M. cap. 23.

XXXIII.

Any person not qualified by Law, keeping or using any Bows, Setting-Dogs, Ferrets, Cony-Dogs, Hays, Lurchers, Nets, Tunnels, Lowbels, Harepipes, Snares, or other Instruments for destruction of Game, and convicted as aforesaid, shall be punished as aforesaid. *Ibid.*

XXXIV.

XXXIV.

Lords of Manors or other Royal-
ties, or any authoris'd by them, may
oppose such Offenders in the Night-
time, in their respective Manors or
Royalties, as if in Park or Chase.
Ibid. [*Sup. N. 11, 26.*]

XXXV.

No *Certiorari* to be allow'd to re-
move any Proceedings on this Act,
unless the party moving be first bound
with Sureties in 50*l.* to pay the Pro-
secutor his full Costs after the Convi-
ction confirm'd, or *Procedendo* granted.
Ibid.

XXXVI.

Offenders punish'd by this Act, not
to incur the Penalty of any other Law
for the same Offence. *Ibid.*

XXXVII.

Persons prosecuted for any thing
done in pursuance of this Act, may
plead the General Issue, &c. and if it
go for them, they shall have treble
Damages. *Ibid.*

XXXVIII.

If any inferior Tradesman, Apprentice, or other dissolute person, shall Hunt, Hawk, Fish, or Fowl (unless in Company of the Master, qualified by Law) they shall be subject to the Penalties of this Act, and may be sued for Trespas for coming upon any persons Ground, and the Plaintiff shall recover his Damages and full Costs. *Ibid.*

XXXIX.

All Laws in force for Preservation of the Game of this Kingdom, not hereby altered or repealed, shall be duly put in Execution. *Ibid. in principio, p. 464.*

[I take no notice here of certain Laws or Orders made by consent among Sportsmen for the Regulating of their Diversions, because no Laws of the Land, nor properly belonging to this Subject; Such are, *The Laws of the Leash or Coursing, as they were commanded, allowed and subscribed by Thomas late Duke of Norfolk in the Reign of Queen Elizabeth.* Which may be seen in *Markham's Country Contentments*, cap. 7.]

II. Wild Fowl.

XL.

NOne shall take Pheasants or Partridges with Engines in another's Ground without Licence. Penalty, 10 *l.* to be divided between the Owner of the Ground and Prosecutor.

11 H. 7. cap. 17.

XLI.

None shall take out of the Nest any Eggs of a Faulcon, Goshawk, Lanner or Swan. Penalty a year and day Imprisonment, and Fine at the King's pleasure, to be divided between the King and the Owner of the Ground.
Ibid.

XLII.

None shall bear any Hawk of *English* Breed, on pain to forfeit the same to the King. *Ibid.*

XLIII.

None shall take, kill, or fear away any Goshawk, Tassiel, Lanner, Lanneret or Faulcon, from the Coverts

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where

where they use to breed. Penalty 10 *l.* to be recovered before Justices of the Peace, and divided between the King and the Prosecutor. *Ibid.* By a Statute made 37 *E. 3. cap. 19.* if any person find a Faulcon, Tercelet, Lanner, or Lanneret, or steal and carry away the same, and not forthwith bring the same to the Sheriff of the County to be proclaim'd as the Act directs, it shall be Felony. But *note*, That this Statute extends only to long-wing'd Hawks, and not to Goshawks and Sparrow-hawks, &c. And it is not material whether the Hawk have Vervels or not, so long as it is really reclaim'd. And for this Felony the Offender shall have his Clergy. *Co. 3 Inst. 97, 98, 99.* The felonious taking of any Hawk, long or short-wing'd, from the Perch, &c. or from the Person of any man, was Robbery at the Common Law; but the finding and concealing a Faulcon, was no Felony till this Act. *Co. ibid. 98.*

XLIV.

None shall kill or take Pheasants or Partridges with Net or Engine *in the Night-time*. Penalty for every Pheasant 20 s. Partridge 10 s. and if not paid in ten days, one months Imprisonment without Bail, and enter into Bond with good Sureties before a Justice of Peace not to offend in the same kind for two years. The Forfeiture to be recovered in any Court of Record, and divided between the Lord of the Manor and Prosecutor: But if the Lord dispenses with the Offender, the Poor of the Parish shall have his Moiety, to be recover'd by any of the Churchwardens. 23 *El. cap.* 10. §. 2, 3.

XLV.

None shall Hawk or Hunt with Spaniels in standing Grain, or before it is shock'd (except in the parties own Ground, or with the Owner's consent) under pain of 40 s. to the Owner of the Ground, to be recover'd as aforesaid. *Ibid.* §. 4.

XLVI. Ju-

XLVI.

Justices of Assize, and of the Peace in Sessions, and Stewards of Leets, have power to hear and determine these Offences. And one Justice of Peace may examine such an Offender, and bind him over with Sureties to the next General Sessions, if the Offence hath not been already determined at the Assizes, or in the Leet. *Ibid.* §. 5.

XLVII.

The Penalties of this Act shall not extend to Fowlers who unwillingly take Pheasants and Partridges by Night, and forthwith let them go again. *Ibid.* §. 6.

XLVIII.

Such as shall be convicted by their own Confession, or Oath of two Witnesses, before two Justices of Peace, of shooting, killing or taking any Pheasant, Partridge, Pigeon, Duck, Heron, Hare, or other Game, or to have taken or destroy'd any Eggs of Pheasant, Partridge or Swan, or shall
trace

trace or course any Hares in the Snow, or take or destroy any Hares with Harepipes, Cords, or other Engines, shall be committed for three months without Bail, unless they immediately pay to the use of the Poor 20 s. for every Fowl, Hare or Egg so killed, taken or destroyed; or after one months Commitment be bound with Sureties in 20 l. each, never to offend again by shooting, killing, taking or destroying any of the Games before mentioned. 1 Jac. 1. cap. 27. §. 2.

XLIX.

Every person convicted as above-said of keeping a Greyhound, Setting-Dog, or Net to take Deer, Hare, Pheasant or Partridge, not having Inheritance of 10 l. per ann. Lease for Life of 30 l. per ann. or worth 200 l. Personal Estate, or Son of a Baron or Knight, or Heir apparent of an Esquire, shall suffer Imprisonment *ut supra*, unless he pay 40 s. to the use above mentioned. *Ibid.* §. 3.

L. None

L.

None shall sell, or buy to sell again, any Deer, Hare, Pheasant or Partridge (except by them reared up, or brought from beyond Seas) under Penalty for every Deer 40 s. Hare 10 s. Pheasant 20 s. Partridge 10 s. to be divided between the Prosecutor and Poor of the Parish where the Offence is committed. *Ibid.* §. 4.

LI.

Justices of Assize, and Justices of Peace in their Sessions, or two or more out of Sessions, may hear and determine these Offences. *Ibid.* §. 5.

LII.

None punish'd by this Law shall suffer for the same Offence the Punishment inflicted by any former. *Ibid.* §. 5.

LIII.

Persons of the Estates abovementioned [XLIX.] and their Menial Servants, sufficiently authorised by their Masters, may take Pheasants
and

and Partridges on their own Manors or Freehold, with Nets, in the Day-time only, between *Michaelmas* and *Christmas* yearly. *Ibid.* §. 6. *This Clause is repealed by 7 Jac. I. c. II.* [Vide inf. n. 57.]

LIV.

Persons licensed in Sessions to shoot Hail-shot in Hand-guns or Birding-pieces, may kill Hawks-meat, *viz.* Crow, Chough, Pye, Rook, Ring-dove, Jay, or smaller Birds: but shall be bound in Recognizance of 20 *l.* not to shoot at any Game prohibited by this Act, (*sup.* XLVIII.) nor within 600 paces of a Hernery, nor 100 paces of a Pigeon-house, nor in any Park or Chace whereof the party licensed, &c. shall not be Owner. *Ibid.* §. 7.

LV.

To hawk or destroy any Pheasant or Partridge between the first of *July* and last of *August*, Penalty one months Imprisonment without Bail, or pay to the Poor 40 *s.* for every time of such hawking, and 20 *s.* for every Pheasant and Partridge so killed. *7 Jac. I. c. II. §. 2.*

LVI.

LVI.

Prosecution limited to six months.
Ibid. §. 4.

LVII.

Lawful for Lord of the Manor, any having Free Warren, Inheritance of 40 *l.* per ann. Freehold of 80 *l.* per ann. or Goods and Chattels of 400 *l.* by themselves, or Servants licensed by them, to take Pheasants and Partridges on their own Precincts in the Day-time only, between *Michaelmas* and *Christmas*. And the liberty given to less Estates, (*sup.* LIII.) repealed.
Ibid. §. 5, 6, 7.

LVIII.

Persons of mean condition convicted by Confession, or Oath of one Witness, before two or more Justices, of taking or destroying any Pheasant or Partridge with Setting-Dogs and Nets or otherwise, shall be committed by the said Justices to the Common Gaol for three months without Bail, unless the Offender pays forthwith to the Poor of the Parish where the Offence shall

shall be committed the Sum of 20 s. for every Pheasant or Partridge so taken or destroy'd, and also become bound in a Recognizance of 20 l. not to offend again in the like kinds. *Ibid.* §. 8.

LIX.

Constables, &c. may by Warrant of two Justices of Peace search the houses of persons suspected (other than such as are by this Act allow'd, *sup.* LVII.) for Setting-Dogs or Nets, and the same take, carry away and destroy, as things prohibited by this Act. *Ibid.* §. 9.

LX.

None shall take an old Heron out of his own Ground (unless it be with Hawking or Long-Bow) on pain of 6 s. 8 d. nor a young one out of the Nest on pain of 10 s. for which Forfeitures any Man may sue by Action of Debt, wherein no Wager of Law, &c. to be allowed. 19 H. 7. cap. 11.

LXI. Any

LXI.

Any two Justices of Peace may examine such Offenders, and commit them to Prison (if guilty) till they have found Surety for payment of the said Forfeitures, whereof the said Justices to have the tenth part. *Ibid.*

LXII.

Note, Every Freeman may have his Ayries of Hawks, Eagles and Herons in his own Wood, tho' within a Forest. *Char. For. cap. 13.*

LXIII.

To destroy or take away the Eggs of any Wild Fowl, Penalty Imprisonment for one year, and to forfeit for every Egg of Bustard, 1 s. 8 d. of a Bittern, Heron, or Shovelard, 8 d. of a Mallard, Teal, or other Wild Fowl, 1 d. To be divided between the King and Prosecutor. And Justices of Peace may enquire, hear and determine these Offences as in Cases of Trespafs. 25 H. 8. c. 11. §. 5.

LXIV. None

LXIV.

None shall shoot in, or keep in his House any Cross-bow, Hand-gun; Hackbut, or Demihake, unless he hath Lands of 100 *l. per ann.* under pain of 10 *l.* except the Followers of Lords Spiritual or Temporal, and all Knights, Esquires, Gentlemen, Inhabitants of Cities, Boroughs, or Market-Towns, who may keep in their Houses Hand-guns of a yard in length, and Demihakes of three quarters, and may use to shoot in such, but at a dead Mark only. So may the Owner of a Ship, or he that dwells two furlongs from a Town. Also he that dwells within five miles of the Sea-Coast, &c. And this last may shoot at any Wild Beast or Fowl, except Deer, Heron, Shovelard, Pheasant, Partridge, Wild Swan, and Wild Elk. 33 *H. 8. cap. 6. §. 1, 2, 6, 7, 23, 25.* He that hath Lands, &c. of 100 *l. per ann.* may seise Cross-bows and Hand-guns kept contrary to this Act; and having broken and destroyed

stroyed them, may keep the parcels to his own use. *Ibid.* §. 2.

LXV.

None shall travel with Cross-bow bent, or Gun charg'd, except in time of War; or shoot within a quarter of a mile of a City, Borough, or Market-Town, except in defence of himself or House, or at a dead Mark, under pain of 10 *l.* *Ibid.* §. 3, 4.

LXVI.

Every Placard granted by the King which expresth not what Beasts or Fowl the Grantee may shoot at, and where the Grantee entreteth not into a Recognizance of 20 *l.* to shoot at no other, shall be void. *Ibid.* §. 17.

LXVII.

By the Stat. of 2 & 3 *Ed.* 6. c. 14. it was enacted, That none under the Degree of a Baron shall shoot in any Hand-gun within City or Town, at any Fowl whatsoever, or with any Hail-shot, in pain of 10 *l.* and three months Imprisonment. And that those
who

The Game Law. 37

who are qualified according to the Statute 33 *H. 8. cap. 6.* (*sup. LXIV.*) may shoot, so they forbear to shoot Hail-shot. And that such that shoot shall present their own Names to the Head Officer, if in a Corporation; if in the County, to the next Justice of Peace, to be recorded at the Sessions, under pain of 20 s. But this Statute is now repealed by 6 & 7 *W. 3. cap. 13.*

LXVIII.

For better preserving the Red and Black Game of Growse, call'd *Heath-Cocks* or *Heath-Polts*, no persons on Hills, Heaths, Moors, or other Waits, shall between the 2d of *February* and the 24th of *June*, burn any Ling, Heath, Furz, Gorse or Fern, on pain to be committed to the House of Correction, not exceeding a month, nor under ten days, there to be whipt and kept to hard labour. 4 & 5 *W. & M. cap. 23.*

III. Fish.

LXIX.

TO take any Fish in any several Water or River without the consent of the Owner of the said Water; Penalty upon Conviction by Confession of the party, or Oath of one Witness, (within a month) before a Justice of Peace, Recompence as the Justice shall appoint, not exceeding treble Damages, and pay to the Poor a Sum not exceeding 10*s.* to be levy'd by Distress; and for want of Distress, the Offender to be committed to the House of Correction not exceeding a month, or give Bond with Sureties to the party injur'd, not to offend again in like manner. 22 & 23 *Car. 2. cap. 25.*

LXX.

The Justice before whom such Offender shall be convicted (by Oath of one Witness, or Confession) may destroy the Engines wherewith he was taken or apprehended. *Ibid.* §. 8.

In

In Trespafs for taking and cutting his Nets and Oars, the Defendant justifies, for that he was seised in fee of a several Piscary, and found the Plaintiff with others trespassing. Judgment for the Plaintiff, for the Defendant cannot by such Colour cut the Nets and Oars, but he might have taken them and distrained them for Damage-tesant. *Cro. Car.* 228. *Reynell* and *Champernoon's* Case. But now they may be taken and destroy'd by a Justice's Warrant. *Vid. inf.* 72.

LXXI.

Persons agrieved may appeal to the next Quarter Sessions, whose Order shall be final, unless the Title to any Land, Royalty or Fishery be therein concerned. 22 & 23 *Car.* 2. *cap.* 25. §. 9.

LXXII.

None shall keep any Net, Angle, Leap, Piche, or other Engine for taking Fish (other than Makers and Sellers thereof, and Owners of a River or Fishery :) And Owners and Occupiers

Occupiers of Rivers and Fisheries, and such as they shall authorise, may seize and keep to their own use any such Engine of such as shall be found fishing without the consent of the Owner or Occupier of such River or Fishery. And any person by Warrant under Hand and Seal of a Justice of Peace, may search the Houses of persons prohibited and suspected, and seize to their own use, or destroy such Engines. 4 & 5 W. & M. *cap.* 23.

LXXIII.

This Act shall not abridge Fishermen and their Servants, lawfully authorised to fish in Navigable Rivers with lawful Nets, &c. *Ibid.*

LXXIV.

Offenders punished by this Act, shall not incur the Penalty of any other Law for the same Offence. *Ibid.*

LXXV.

An Act was made in the first year of Queen *Elizabeth*, *cap.* 17. for the Preservation of the Spawn, Fry, and young

young Breed of Eels, Salmon, Pikes, &c. prohibiting the taking of such in any Streams, Brooks, Rivers fresh or salt, within this Realm, (except *Tweed, Usk and Wye*) prohibiting also the taking Salmon and Trouts not being in season, and under such a length; directing also of what dimensions the Meshes of the Nets used for such Fishing ought to be, under certain Penalties for the Offenders, for the Steward of a Leet who neglects to give this Act in charge, and for every Juryman sworn at any Leet who shall wilfully conceal any such Offence. This Statute was made perpetual. 3 Car. 1. cap. 4. Another Statute was made to the like purpose, but directed particularly to the Preservation of the Spawn and Fry in the River *Severn*, in the Counties of *Worcester, Salop, and Gloucester*. 30 Car. 2. cap. 9. But these Statutes relating chiefly to the Preservation of Salmon and other great Fish, and not directly provided against Poachers and Trespassers in particular Manors, and therefore not so properly within the

design of this Treatise, I take no further notice of them here, but refer to the Statutes themselves.

LXXVI.

Trespassers in Ponds shall give treble Damages to the party griev'd, suffer three years Imprisonment, and be fined at the King's pleasure, &c. *Vide sup. X.* In an Indictment for taking out of his Pond *quosdam Pisces*, vocat' *Carp-Fishes*, it is not necessary that the numbers should be expressed, (as in an Action it would be) for in Actions Damages are to be recovered, but upon Indictments the party is to be fin'd at the discretion of the Court, whether one Fish or many, were taken, according to the circumstances of the Fact, not according to the number of the Fishes. 1 *Levinz* 203. the King against *Wetwang*.

ADDENDA.

LXXVII.

TAking Fish in a River is no Felony, but taking Fish out of a Net, Trunk or Pond is Felony, because not at their natural liberty. So to take old Pigeons out of a Pigeon-house. Where a Man hath a Property only *ratione loci*, or *privilegii*, in things *feræ naturæ*, as Conies or Deer in my Ground, Park or Warren, to take such is no Felony: But if reduced to tameness, and fit for Food, as tame Deer, Conies, Cranes, Partridges, Pheasants, he that steals them, knowing them to be tame, commits Felony. So of Swans mark'd and pinion'd, or unmark'd if kept in a Mote, Pond, or private River. Where a Man hath a Property *ratione impotentia*, in things Wild by Nature, as young Hawks in the Nest, or young

Pigeons in the Nest, the taking of such is Felony. Taking of Hawk or Swan out of the Ground of another, no Felony, but punishable by *Stat.* [*sup.* XLI, XLVIII, LXIII.] But taking any thing *domitæ naturæ*, as Duck, Hen, Geese, Turkeys, Peacocks, or their Eggs, or Domestick Beasts, as Horses, Mares, Colts, &c. or their Young, is Felony. *Hale Pl. Cr. p. 68. Stamf. Pl. Cr. 25. b. Cromp. Jurisd. 167. a.*

Note, There are three sorts of Properties; Property absolute, Property qualified, and Property possessory. *Property absolute* a man cannot have in any thing that is *feræ naturæ*, but in such things only as are *domitæ naturæ*: But *Property qualified* and *possessory* a man may have in that which is *feræ naturæ*; And such Property as last mentioned a man may attain two ways, *viz.* by Industry, or *ratione impotentiae & loci*. By Industry is, where he takes wild Creatures, and makes them tame or domestical; in these a man hath only a qualified Property, *viz.* so long as they remain tame; for if they get
tl eir

their natural liberty, and have not *animum revertendi*, the Property is lost. Property *ratione impotentiae & loci* is, where a man hath Goshawks or the like, which are *seræ naturæ*, and make their Ayeries on his Land, he hath a possessory Property in them; for if another takes them before they can fly, the Owner of the Soil may have his Action of Trespass, *Quare Boscum suum fregit, & tres pullos espervorum suorum, &c. cepit & asportavit*. But where a man hath Wild Beasts *ratione privilegii*, as by reason of a Park, Warren, &c. he has not such a Property in the Deer, &c. as in an Action to call them *Damas, Lepores, vel Cuniculos suos*; for he hath not an absolute Property in them, but they belong to him *ratione privilegii*, for his Game and Pleasure, so long as they remain in the place privileged. *Co. 7 Rep. fo. 17. b.*

LXXVIII.

Tho' the Common Law warrants hunting ravenous Beasts of Prey in another Man's Ground (as Fox and
C 3 Badger)

Badger) yet digging to unearth them is unlawful. *Cro. Jac.* 321. *Geush* and *Mynn's Case*. *Roll. Abridgm. Trespass*, 558.

LXXIX.

If *A.* trespasses in hunting upon *B.*'s Ground, yet *B.* cannot justifie killing the Dogs, as seems from the Authority of *Roll. Abridgm. Trespass*, 567. But it was otherwise adjudg'd in 2 *Cro.* 44. *Wadburst* and *Damme*, & *Mich.* 33 *Car.* 2. in *Com. Banc.* in the Case of *Barrington* and *Turner*. The Plaintiff brought his Action of Trespass against the Defendant for killing a Brace of the Plaintiff's Greyhounds. The Defendant justifies, for that the Greyhounds did chase a Deer in his Park, and killed him there; and to prevent further harm, he took the said Greyhounds and killed them. The Plaintiff replies, That the Deer was out of his Park upon the Plaintiff's Land, feeding upon his Grass; that he loosed the Greyhounds at him to chase him off his Land; that they pursu'd the Deer
into

into the Park, and there killed him. To this the Defendant demurs; And upon Argument it was adjudg'd that the Replication was naught, because he does not say that he did his endeavour to stop the Greyhounds at the Park-side, and prevent their entrance therein. But then it was objected, that the Bar was naught; for tho' it was unlawful to chase in his Park, yet when the Defendant had taken the Greyhounds he ought not to have killed them. And for this was cited *Roll. 2 Abridgm. 567. Lewis's Case.* Against which was cited *2 Cro. 44. Wadhurst against Damme.* Afterwards upon consideration of both those Books, Judgment was given for the Defendant. *3 Levinz 28.*

LXXX.

Mic. 9 W. 3. Sutton against Moody, B. R. The Plaintiff brought his Action for breaking his Close and killing his Conies. The Question was, Whether the Plaintiff could say they were *Cuniculos suos*, unless they had been alledged to be killed in *Warrena sua*,

in regard they are *feræ naturæ*? The Lord Chief Justice said, That he had a Property in them so long as they were upon his Ground; which Property was transient, and not permanent, and the being or not being a Warren signifies nothing as to that; but the being upon his Land is sufficient, tho' it be no Warren. He said also, That a Hare is his on whose Ground it remains, while it remains there: And if a Man in hunting starts a Hare upon his own Ground, and follows and kills it upon another's Ground, yet still the Hare is his own, because of the fresh suit: But if a Man starts a Hare upon another Man's Ground, and hunts and kills, he is subject to an Action, tho' it be not usually brought, it being frivolous. For this he mentioned an Authority in the time of *H. 8.*

Vide Mich. 12 H. 8. fo. 9. b. and Child and Greenhill's Case, Cro. Car. 553.

LXXXI.

If a Man license J. S. to chase in his Park, he cannot bring others with him to hunt there. But if he licenses him to chase, kill, and carry off Deer at his Pleasure, then he may bring others with him. *Crompt. Jurisd.* 160. b. If Licence be given to the Master to hunt in a Park, the Servant cannot justifie hunting, tho' by his Master's Command; for this is only a Thing of Pleasure, and a Licence extends strictly to him to whom it is given, and to none other; contrary to a Gift by which a Man gains Property; and therefore he that hath such Licence cannot bring his Servant with him, for that is out of the Licence. *Idem* 159. b. And if a Man gives Licence to kill a Buck, the Party licensed cannot carry it off with him, without such words also as import that he did give it. *Ibid.* A Parker cannot license one to hunt and chase in his Master's Park. *Ibid.* A Man may chase in the Warren or Park of another with the Owner's

er's Licence, without shewing the Licence in writing. *Crompt. Jur.* 186. a. He that hath any manner of Licence to hunt in any Forest, Chase, Park, or Warren, must take heed that he does not abuse his Licence, or exceed his Authority in any point; for if he do, then he shall be accounted a Trespasser *ab initio*, and shall be punished for that Fact as if he had no Licence at all. *Manwood cap.* 18. p. 280, 288.

There are two sorts of Licences, viz. a Licence or Interest of Profit, and a Licence or Interest of Pleasure only. He that hath the first, may justifie for himself and his Servants also: but he that hath the second, cannot justifie for Servants, but only for himself. *Manwood cap.* 20. pag. 382.

LXXXII.

By an Act pass'd 5 *Ann. c.* 14. entitl'd, *An Act for the better Preservation of the Game*, all Laws now in being for the Preservation of the Game shall continue, remain and be in the same force,

force, not hereby repealed or altered.
pag. 165.

LXXXIII.

By the same Act, if any Higler, Chapman, Carrier, Innkeeper, Victualler or Alehouse-keeper, shall after the first day of *May 1707.* have in his or their possession any Hare, Pheasant, Partridge, Moor, Heath-Game, or Grouse, or shall buy, sell, or offer to sale any such: Every such Higler, &c. or Carrier (unless such Game in the hands of such Carrier be sent up by person or persons qualified to kill the Game) shall upon every such Offence be carry'd before some Justice of the Peace for the County, &c. where the said Offence is committed; and upon view, or Oath of one or more Witnesses, shall be convicted of the same, shall forfeit for every Hare, Pheasant, Partridge, Moor, Heath-Game or Grouse, the Sum of Five pound, half to the Informer, and half to the Poor of the Parish where the Offence was committed, to be levied by Distress
and

and Sale of the Offenders Goods, by Warrant under Hand and Seal of the Justice before whom the Offender was convicted. For want of Distress, the Offender to be committed to the House of Correction for three months for the first Offence, and for every other Offence for four months, without Bail. The Prosecution to be within three months after the Offence. *Ibid. pag. 166.*

LXXXIV.

No *Certiorari* shall be allowed to remove any Conviction or other Proceedings in this Act, into any Court at *Westminster*, unless the party convicted shall first become bound to the party prosecuting with sufficient Securities in the Sum of Fifty pounds, condition'd for paying the Prosecutor within fourteen days after *Procedendo* granted, his full Costs and Charges. &c. *Ibid.*

LXXXV.

Any person that shall destroy, sell or buy any Hare, Pheasant, Partridge, &c. and shall within three months make discovery of any Higler,

ler, Chapman, Carrier, Innkeeper, Alehouse-keeper or Victualler that hath bought or sold, or offered to buy or sell, or had in their possession, any Hare, &c. so as any one shall be convicted of such Offence as aforesaid, such Discoverer shall be discharged of the Penalties aforesaid, and shall receive the Benefit and Advantage as any other Informer.
Ibid. pag. 166.

LXXXVI.

If any person, not qualified by Law, shall keep or use any Greyhounds, Setting-Dogs, Hays, Lurchers, Tunnels, or any other Engine to kill and destroy the Game, and shall be thereof convicted upon the Oath of one or two credible Witnesses as aforesaid, he shall forfeit the Sum of Five pounds, to be disposed and levied as aforesaid. And for want of Distress, the Offender to be sent to the House of Correction for three months the first Offence, and four months every other. And any Justices of Peace in their respective Counties, &c. and the Lords or Ladies

dies of Manors within their Manors, may take away any such Hare, Pheasant, Partridge, &c. from any such Higler, Chapman, Innkeeper, Victualler or Carrier, or any other person not qualified to kill the same, as shall be found in their possession; And likewise may take away such Dogs, Nets, or other Engines which shall be in the Power or Custody of any person not qualified to keep the same, to their own proper use. *Ibid. pag. 167.*

LXXXVII.

Any Lord or Lady of a Lordship or Manor may by Writing under his or her Hand and Seal impower his or her Game-keeper, within their respective Lordships or Manors, to kill Hare, Pheasant, Partridge, &c. But if the said Game-keeper shall under colour of the said Power, kill, and afterwards sell or dispose thereof to any person whatsoever, without the consent of the Lord or Lady of such Manor, upon Conviction as afore-said, he shall be committed to the House of Correction for three months, there

there to be kept to hard labour.
Ibid.

LXXXVIII.

If any person shall after the first of *May* aforesaid set Fire to any Ling, Heath or Brakes, (which thing tends to the destruction of the Breed of Game) in any part of the Forest of *Sherwood*, or on any Land within the County of *Nottingham*, or shall cut any Ling, &c. in order to burn the same upon the Ground, in any part of the said County, without Licence from the Owner of the Soil, he shall forfeit Ten shillings to the Owner of the Soil, and all the Ashes which shall be so burnt. And whosoever shall buy any Fern-Ashes of any such unlicensed person within the said County, shall forfeit for every Peck of such Ashes so bought Ten shillings, one Moiety to the Poor of the Parish, the other to the Informer. And the Officers of the said Forest, and Owners of the Soil where the Offence shall be committed, their Servants or Agents, may take away for their own use the Scythes, Rakes, and other Instruments

ments to be used for those purposes, of every person so offending. And every person convicted of any of the said Offences before any one Justice of the Peace, by the Oath of one or more Witnesses, shall immediately pay down the Penalties hereby imposed, or be committed by such Justice to the House of Correction for one month, unless the Penalties be in the mean time paid. *Ibid. p. 168.*

This Act to remain in force for three years from the first of *May 1707.* and from thence to the end of the next Sessions of Parliament, and no longer. *Ibid. pag. 167.*

LXXXIX.

The Provision against any Officers or Soldiers taking or destroying any Game without licence (*ut sup. XXXI.*) was again enacted in an Act pass'd 3 & 4 *An. c. 16. p. 263.* which Act was continued by another Act pass'd 4 & 5 *An. c. 11. to 25 Mar. 1707.* and since, all and every the Provisions, Clauses, Matters and Things in the first of the said Acts contained are further continued to 25 *Mar. 1708.* by an Act pass'd 5 *An. c. 16.*

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APPENDIX.

Some Presidents of Li- cences, &c.

A Licence and Deputation granted by a Lord of a Manor and Owner of a Fishery, to one to Hunt, Course, Set, Hawk, Fish and Fowl within the same, and also to Seize, &c.

TO all to whom these Presents shall come, I *A. B.* of *C.* in the County of *D.* Esquire, Lord of the Manor of *E.* in the said County, and

D 2 of

of the Royalty or Liberty of Free Fishing in the River of F. within the said Manor, send Greeting. **Know ye,** That I the said *A. B.* for divers good Causes and Considerations me thereunto moving, have given and granted, and by these Presents do give and grant unto my Trusty and Well-beloved Friend *G. H.* and his Assigns, full Power, absolute Authority, free Liberty, and Licence, to Hunt, Course, Set, Hawk, Fish and Fowl, from time to time, and at all times hereafter, at the Will and Pleasure of him the said *G. H.* and his Assigns, for and during the term of, &c. from the Date hereof, in, upon and within my said Manor of *E.* and in and upon all and singu-

singular the Lands, Grounds
and Woods thereof, and the
said River of *F.* within the
said Manor, and within all and
every the Boundaries, Precincts,
Limits, and Circuits of the
same, in as free, full, large,
ample and beneficial manner
as I my self may or can do in
any respect whatsoever, without
any manner of Denial, Hin-
drance, Molestation, Interrup-
tion, or Disturbance of me the
said *A. B.* or by or through
any Act or Acts done by me
the said *A. B.* or by my means,
consent, privity or procurement,
or of my Heirs, Executors, Ad-
ministrators or Assigns, or of
any person or persons lawfully
claiming, or which hereafter
shall or may claim under me,
D 3 them,

them, or any of them, during
the Term aforesaid.*

* Here a Licence
only may end; but
if it be also a De-
putation and Au-
thority to seize,
&c. it continues
as follows.

And moreover, I
the said *A. B.* do
hereby, for me, my
Heirs, Executors &
Administrators, co-
venant, promise, grant and a-
gree (so far as by Law I can
or may) to and with the said
G. H. and his Assigns, That it
shall and may be lawful to and
for the said *G. H.* and his As-
signs, from time to time, and
at all times hereafter, during
the said Term of, &c. (as often
as Occasion shall require) to
Seize, Detain, and Keep to his
or their own Use or Uses, or
otherwise to Destroy (as pro-
hibited to be kept by persons
unqualified by Law) as well
all

all and every the Cross-Bows, Hays, Coney-Nets, Tunnels, Low-bells, Hare-pipes, Quail-pipes, Snares, Fishing-Nets, Angles, Leaps, Pitches, or other Instruments or Engines for Destruction of Fish, Fowl, Hares, or Conies, of any person or persons Hunting, Hawking, Fishing or Fowling within the said Manor, or Liberty of Fishing belonging thereunto; as also all the Greyhounds, Spaniels, Setting-Dogs, Coney-Dogs, Lurchers, or Ferrets, of any person or persons whatsoever, that shall at any time or times hereafter Hawk, Hunt, Fish or Fowl within the said Manor, or Liberty of Fishing belonging thereunto, or within or upon any part or parcel thereof,

thereof, without any Licence
or Consent of the said G. H.
first had or obtained for the
doing thereof. **In witness**
whereof, I have hereunto set
my Hand and Seal this, &c.

A Warrant for a Buck.

To the Keeper of, &c.

UPON sight hereof, you
are to kill and deliver to
J. S. Esquire, one Fat Buck of
this Season, for which this shall
be your Warrant.

A: B.

A

*A Warrant Dormant for
D E E R.*

BE it known unto all Men by these Presents, That I Sir J. S. Earl of D. and Lord S. have given and granted, and by these Presents do give and grant unto my well-beloved J. H. and M. his Wife, one Stag and two Bucks in Summer, and one Hind and two Does in Winter, yearly to be taken in two Parks of my Isle of A. or in the Chase belonging to the same, of my Gift yearly, during their Lives, and the longer liver of them. And I license, and give Authority and Power to the said J. and M.
and

and either of them, during their Lives, and the longer liver of them, and their sufficient Deputy, yearly in the times of Season, and convenient, to go into the said Parks or Chase, calling the Keeper or Keepers thereof with them, there to Hunt and Kill the same Deer, and them to carry away at their Liberty and Pleasure, with such convenient number of persons as shall like them, for and about the doing of the same. And further I will, That if the said J. and M. yearly sometimes will not come themselves, or either of them, for the same, then I will that my Keepers of my said Parks or Chase for the time being, upon Bill signed with the Hand of the said J. or M. concerning the same, shall

shall kill and deliver from year to year to the Bringer of the same Letters, the said Summer-Deer and Winter-Deer, without any restraint or gainfaying by them or any of them, in any wise to be made or done. **In witness** whereof, &c. *Vid. West. Pres. part 1. sect. 575.*

A Licence, or Placard, to shoot in Cross-Bows and Hand-Guns.
Vid. West. Pres. part 1: sect. 549.

Ex paucis dictis intendere plurima possis.

FINIS.